

Title 16, PHYSICAL THERAPY BOARD OF CALIFORNIA

NOTICE IS HEREBY GIVEN that the Physical Therapy Board of California is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Burbank Airport Hilton and Convention Center, 2500 Hollywood Way, Burbank, California 91505, (818) 843-6000 at 9:30 a.m. on Tuesday, May 11, 2004. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Physical Therapy Board of California at its office not later than 5:00 p.m. on April 26, 2004 or must be received at the hearing. The Physical Therapy Board of California, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Section 2696 of the Business and Professions Code, and to implement, interpret or make specific section 2630, 2655, 2655.7, 2695 of said Code, and section 13401 of the Corporations Code, the Physical Therapy Board of California is considering changes to Division 13.2 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

1) Adopt section 1399.37.1

Business and Professions Code sections 2630, 2655, 2655.7, 2695 and section 13401 of the Corporations Code authorize the Board to establish guidelines for who may practice physical therapy and form a professional corporation.

The Physical Therapy Board of California has determined that the Physical Therapy Practice Act does not prohibit the offering of physical therapy services by a corporation, which is not organized as a professional corporation. This is interpreted to mean that such a non-professional corporation may employ or retain licensed physical therapists to provide physical therapy services and that laypersons may own all or part of the shares of such a corporation. The Physical Therapy Board of California has since found this determination to be problematic when it is misinterpreted and the practice of physical therapy is being controlled by laypersons.

A partner or other person having ownership interest in a professional practice has the right to manage and control the actions of his or her partner or employee. Such a person who is not professionally licensed may not control decisions that effect the professional discretion of the licensee and adversely affect the care of the patient. A layperson that is a shareholder in a corporation providing physical therapy services also may not manage or control the professional actions or practice decisions of a physical therapist in the employ of such a corporation.

The Physical Therapy Board of California proposes to adopt section 1399.37.1 to prohibit a person other than a licensed physical therapist, a physical therapy corporation as specified in section 2690 of the Code, or any other person authorized by law, from directing or controlling the professional practice of physical therapy. The proposed adoption of 1399.37.1 would also specify that a licensed physical therapist who authorizes or permits his or her professional practice to be directed or controlled to be in violation of this section and subject to disciplinary action.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact:

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

The following studies/relevant data were relied upon in making the above determination:
None

Impact on Jobs/New Businesses:

The board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Private Persons or Entities: The Physical Therapy Board of California is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Physical Therapy Board of California has determined that the proposed regulations would not affect small businesses since compliance is placed with the individual licensee.

CONSIDERATION OF ALTERNATIVES

The Physical Therapy Board of California must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome on affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of the reasons and all of the other information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Physical Therapy Board of California at 1418 Howe Avenue, Suite 16, Sacramento, California 95825.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file that is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries concerning the proposed administrative action or the substance of the proposed regulations may be addressed to:

Rebecca Marco
1418 Howe Avenue, Suite 16
Sacramento, CA 95825
(916) 263-2550
(916) 263-2560 – Fax Number
Rebecca_Marco@dca.ca.gov

The backup contact person is:

Steve Hartzell
1418 Howe Avenue, Suite 16
Sacramento, CA 95825
(916) 263-2550
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Steve_Hartzell@dca.ca.gov

Inquiries concerning the substance of the proposed regulations may be directed to Rebecca Marco at (916) 263-2550.

Website Access: Materials regarding this proposal can be found at www.ptb.ca.gov.